Section 3, Remarks:

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REMARKS

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Re-examination and reconsideration of this case is respectfully requested for the 20 claims now in this case in view of the amendments to the claims and new claims presented in this Response.

Claims 8 and 18 directed to the "sticky path" program functionality were indicated in the Office Action of February 7, 2007 to be conditionally allowable if written in independent form. That has been done by incorporating the text of those claims into the main claims 1 and 11 from which they depend, respectively. Claims 8 and 18 have been cancelled.

Note that main claims 1 and 11 are now directed to the sticky path functionality and method *per se*, that is, independent of the functionality of parts i) and ii) of sub-parts e) and c) of claims 1 and 11, respectively. Claims 8 and 18, indicated allowable, were more detailed statements of element e) iii) of claim 1 and step c) iii) of claim 11, respectively. Accordingly, elements/steps i) – iii) were cancelled in favour of introduction of the substantive text of claims 8 and 11 into amended claims 1 and 11 as part f) of claim 1 and step d) of claim 11, respectively. Those amendments accomplish the rewriting of claims 8 and 18 as the main claims 1 and 11 (as amended) in this case.

Accordingly, allowance of claims 1 and 11 is respectfully urged. In addition, the dependent claims 2 – 7, 9, 10, 12 – 17, 19 and 20 should now be allowable, being dependent from allowable claims 1 and 11.

Claims 21 and 22 are new, and repeat the previously presented claims 1 and 11, respectively to maintain continuity. As noted in the argument below, those claims are patentable over the Stickler reference. Accordingly, allowance of those claims is also requested. .

No new matter has been introduced by the amendments to the claims, and no new issues are raised by these amendments, as they are merely clarifying language necessitated by the PTO's withdrawal of the prior rejection and issuing new rejections of claims previously indicated allowable. The amendatory language is follows the previously submitted language of the Original claims as filed and is amply supported in the Speci-fication, including text and drawings.

Response to the 101 Rejection of Claim 11 and its Dependent Claims 19 and 20:

This rejection was un-necessary. A simple call to Applicant's counsel would have led to the simple amendment to line 1 of steps a) and c) of claim 1 to the preferred gerund phrase from the prepositional phrase that is a "No-No" to the PTO.

Since that amendment has been made, the Rejection should be withdrawn. In addition, the new claim 22 uses the language approved by the PTO with respect to providing.

Response to the 103 Rejection:

This rejection is now moot with respect to claims 1 – 7, 9 – 17, 19 and 20. To the extent that, upon reconsideration by the Examiner, it may apply to new claims 21 and 22, Applicant points out that the addition of the Stickler reference does not cure the PTO-admitted defects in Watkins and Lewak.

The PTO Rejection does not factually contest the explanation by Applicant of the Watkins and Lewak references. Clearly the PTO does not understand the functional operation and features of the programs of those patents, nor that one of ordinary skill in this art would not combine them, and indeed could not combine them to arrive at the claimed invention.

This has been amply discussed in Applicant, Dr. Horn's previous Responses in this Application, including the detailed comparison of features and functionality charts incorporated therein. In addition, the differences were discussed by Dr. Horn in the WebEx demonstration to the Examiner and his SPE. In order to not burden the record, those responses are hereby incorporated by reference.

The Examiner quoting out of the claim and then baldly asserting that the references to Watkins and Lewak teach those functionalities or steps, while misreading the reference is not the factual basis for a rejection. The Examiner misunderstands the context of the reference, and clearly does not understand what the references are doing.

And this extends now to Stickler. **Contrary to the assertion on page 7 of the Office Action, Stickler does not teach hypertext linking in the cited paragraph 033, or the others listed. All Stickler teaches that is relevant here (most of this massive document is not relevant) is to make a path directory out of metadata. That is not hypertext linking.** And Stickler's path directory added to Lewak and Watkins does not result in the claimed program functionality or method of scanning source data of objects, creating or extracting metadata from said scanned objects, storing said metadata in said database, and storing reference objects in said database with link metadata attached to said reference objects to

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provide automatic organization, indexing and viewing of information objects from multiple different domain sources in said desktop-style interface while storing only one instance of said reference object.

Nor does the combination of references teach or the component architecture code and method providing automatic organization, indexing and viewing of said information objects including at least one of: i) key phrase hypertext linking between an object and a collection in which the object is contained, said key phrase comprising at least one of the criteria of said collection; ii) automatic generation of collection contents by criteria specified for collection membership through at least one object content attribute selected by user-defined key-phrase matching; and iii) sticky path hierarchical scrolling display.

In order to not burden the file, Applicant incorporates by reference herein the Remarks Section 3 of the Responses filed July 10, 2006 and August 28, 2006. .

In spite of what the Rejection states, none of **Watkins, Lewak or Stickler**, taken alone or in combination, teach or suggest the claimed system. In spite of the quotes in the Office Action out of Applicant's claims, none of the references teach or suggest:

> i) key phrase hypertext linking between an object and a collection in which the object is contained, said key phrase comprising at least one of the criteria of said collection;
>
> ii) automatic generation of collection contents by criteria specified for collection membership through at least one object content attribute selected by user-defined key-phrase matching; or
>
> iii) sticky path hierarchical scrolling

The Office Action notes significant gaps in **Watkins**. Although those listed are not the only gaps, in order to assist in keeping the prosecution moving forward, Applicant will focus at present on the issue of whether **Lewak** teaches what the PTO claims it teaches. Of course, if it does not then the rejection falls, and all claims are allowable as **Lewak does not cure the defects in Watkins** that the PTO admits by itself (for whatever reason) does not disclose or render obvious the claimed MFS system. Applicant reserves the right to point out other defects in Watkins, including but not limited to that Watkins and Lewak are directed to different functionalities and issues in different programs such that one skilled in the art would not look at the two as being sufficiently similar to look to Lewak as contributing solutions to the defects in

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Watkins.

Further, the Office Action fails to point out that the alleged motivation it claims to find in Lewak is a reason one skilled in the art would look to Watkins as the base program into which some of the Lewak functionality would be provided. Merely saying OSIA would want a better program is not motivation to combine a feature out of one reference where the sole suggestion to do so is the Applicant's Specification, as Applicant's Specification cannot be the source for the combinational teaching.

Nor does the Office Action provide adequate basis for showing just what gaps in Watkins one skilled in the art would see as needing repair **absent direction in Applicant's Specification,** such that they would look to Lewak, and that the result is the claimed MFS system. That is to say, one skilled in the art can look at Watkins, and depending on mindset and interest find a raft of gaps in Watkins that need repair or filling, and look to Lewak or other references to fill, yet the result is remote from the claimed MFS system.

That points up the fact that **the Office Action still has not purged itself from having improperly used Applicant's Specification as a blueprint for picking and choosing only selected functionality out of Lewak to plug into Watkins. That is improper precisely because Applicant's specification is not prior art. That point remains un-rebutted by the Office Action, and for that reason alone, the rejections are unsound and should be withdrawn.**

The Office Action on page 5 relies on Lewak Col 7, line 50 -54 and Col 8, lines 6 – 15 as teaching *automatic generation of collections* by selection of user defined key phrase matching, etc, having quoted that language out of main claim 1, sub-part e) iii). (Note the Office action mis-labels that language as out of sub-part e) iv); that language just above is now sub-part e) ii) in main claim 1 and c) ii) in main claim 11). Lewak is not automatic.

In addition, the Office continues to cite Lewak as allegedly teaching, in Col 6, lines 17 – 22, linked categories, and teaching, in Col 5, lines 4 – 31, linking categories assigned to each data file with a reference object by metadata in a File Information Directory.

Now, considering those citations on pages 5 and 6 of the Office Action together, the Office has mis-characterized Lewak's teaching. **That process in Lewak is not automatic. Rather the categories for each file are processed manually by the user. Files are NOT categorized in Lewak AUTOMATICALLY in any way, shape or form.** Further, as noted

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before (and below), linked categories as described by Lewak, are very different than in the inventive MFS system as claimed.

In this regard, Applicant notes that argument of the Office Action page 5 is a mis-characterization of what Lewak teaches. What Lewak says here is that the "user" **manually** categorizes the files by choosing categories from a limited list in a Categories window. The FC manager, running as a background process, simply checks to see if files that are being closed have already been seen by the system and already categorized "by the user". **If not, the user is asked to categorize the file and the user may (or may not) act in response, and any response needs to be made every time for every file that is closed.**

That is, **Lewak merely provides a simple check and notify function**, no different that the alert one gets in Word, "Do you want to delete this file?". It is up to the user to categorize, and that is done manually. It is not automatic and it is not done by the system using key phrase matching.

In essence Lewak's background process is telling the user "You forgot to manually categorize THIS file. Do you want to do so? If so, do it now before the file is really closed, or else it won't get categorized", whether or not the file is in a collection or in any other filing system paradigm. **That is NOT what is claimed, and no overbroad or deliberate misinterpretation by the Office makes it so.**

The citation of **Stickler** does not address these gaps in Watkins or Lewak. It merely claims to teach hypertext linking. It does neither; it does not cure the gaps in Watkins and Lewak and does not teach hypertext linking as noted above.

In the claimed MFS system there is automatic generation of collections, that is, generation is done when an object comes into the computer (or is created therein) without intervention by the user, once the initial configuration is established via user or system defined metadata query specifications, key phrases to match, or combinations thereof. From that point on the claimed MFS system automatically collects objects into various different collections as they are changed either by the system or the user and no notice or reminder or action by the user is required. This is unlike the Lewak system. Quite simply, and contrary to the mis-description in the Office Action, Lewak does NOT teach or suggest any automatic criteria-based or keyphrase-based collections or categorizations.

Indeed, whatever that combination of Lewak and Watkins might be, the PTO can have it, as that is not what is claimed. The PTO can go on manually categorizing each file upon every pop-up file-closing notice if it wants. **The word automatic has meaning in this art, and the Office should acknowledge that and not ignore the patentable significance of such a feature.** Lewak's FC Manager does not do automatic generation of collections, it merely checks to see if the user has in fact previously categorized the particular open file, and lets the user know if he/she has not. What is done, or not done after that is not automatic, it is manual by the user. **What is claimed is not the same and Applicant objects to the Office's deliberate misreading of the claimed subject matter and the overbroad reading of the reference. That is not right, and plays games with the innovation rights of Applicant.**

The Office repeated this point in the rejection of main claim 11. That is the only rejection of main claims 1 and 11. The Office is wrong; the rejection should be withdrawn, and those main claims allowed. Then, as all remaining claims are dependent claims, they are also allowable. Accordingly, Applicant requests allowance of all claims in the case.

However, Applicant makes of record that the Office is also wrong in its position on Lewak in its rejections of other elements of other claims. For example, with reference to claim 2 (and 12), the Office cites Lewak at Col 9, line 56 through Col 10, line 9 as teaching sub-part ii) the feature of automatically conjoining specifications.

What Lewak does in that description is something very different: creating categories of categories. Here is how Lewak works: Say you want to have a category for each kind of sports car. You would also then have to define the category Sports Car, which would have as sub-categories Porsche, Mazda, Lotus, etc. Lewak describes, in that cited Column and line, the process of manually selecting the category Sports Car, which then shows only the sub-categories Porsche, Mazda, Lotus, etc, from among which you select the sub-category desired to be viewed.

In contrast, Applicant describes and claims the feature of selecting: first, the Recent Collection, which shows all objects in the "Recent" collection (the collection with criteria "created or modified within the last week"); then the "Photos" collection (the collection with criteria "an image file"), which then shows the objects that are **both** in "Recent" and in "Photos"; then the "Jake" collection (the collection with criteria "my colleague Jake"). The claimed MFS system then conjoins the requests by attribute and automatically shows only

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those objects that exist commonly **in all three** collections. That is, there may be more Jake images or documents, but may not be photos or recent, or may be photos but not recent. That is not a sub-category structuring, but a conjoining function. To the extent Lewak can be said to refine views by categories, Applicant is refining collections via attribute critera, which is significantly different.

With respect to the Office's argument that Lewak teaches real time filtering in Col 8, lines 16 – 30; Lewak is here just describing ordering the list by name, alphabetically. In patentable contrast, the inventive MFS system employs a number of different and novel filtering functionalities, such as described above for Recent, Images and Jake. Viewing by reference is special in that it shows **only** the RELEVANT categories, once a number of categories have been chosen. In particular, in the MFS system, once a category is selected, ALL other relevant categories are shown, but with their contents filtered by that selection. The Office is commended to review Figures 20 – 22 and accompanying text to better understand the operation of this functionality.

The Office cites Lewak's Col 8, lines 16 – 30 as teaching real time filtering/sorting as claimed on sub-part vi), but a Lewak alphabetical display is not real time filtering accompanied by sorting. Filtering is criteria screening, whereas alphabetical display is not a filtering function. Rather, alphabetical display is merely an ordering function, that is, what order to display something without regard for what objects are shown, the latter being a filtering consideration.

. The Office cites Lewak's Col 7, lines 49 – 67 and Col 8, lines 6 – 16 as teaching notification to the user of collection establishment and changes in sub-part vii), "providing a notify event of collection establishment and changes in collections". In the cited columns of Lewak, all he does is notify the user when a file appears in the system that needs to be categorized manually. It is a simple "Hey, do something to this orphan file" function. That is a pre-user-action event. It has nothing to do with automatic notify event of **collection establishment and changes in collections**.

The Office is respectfully requested to read ALL the terms of the claims and the references, and to not over-broadly read the claim (or omit language) in order to make a rejection. That does not meet the mandate of the Commissioner in MPEP 2106, which is directed to the Examining Corps:

> *"Office personnel should indicate how rejections may be overcome and how problems may be resolved. A failure to follow this approach can lead to unnecessary delays in the prosecution of the application."*

With respect to claim limitations, the over-broad reading approach is NOT approved, the Commissioner stating in the Guidelines:

> *". . . every limitation in the claim must be considered. Office personnel may not dissect a claimed invention into discrete elements and then evaluate the elements in isolation. Instead, the claim as a whole must be considered. See, e.g., <u>Diamond v Diehr</u>, 450 US at 188 – 89, 209 USPQ at 9 (quoting from the case)."*

Further, in the claimed MFS system, Claim 2, sub-part vi) is directed to the function of sending a notice to the user **after** a collection has a new member due to the **automatic** collection process (run by the system, not the user), or when the collection loses a member due to the automatic collection process. For example, the system can be configured so the user could be notified when a new file that mentions "Apple Computer" is collected into the Apple collection; this can be done completely without user intervention, since another process on the computer may be (say) downloading documents from a central server, which the invention is then automatically organizing into collections. The MFS system is smart enough to recognize an Apple-related document (or image) at the onset of download, and automatically puts it into the proper collection, then advises the user of what it has done. The MFS system user, unlike the Lewak user, needs do nothing to each incoming file. **That is a patentable distinction not shown by Lewak or Watkins, and nothing in Lewak can morph Watkins into the claimed function, regardless of how the Office attempts to mischaracterize it.**

In connection with part viii) of Claim 2, the Office claims that Lewak teaches Col 8, lines 61 – 67, Col 11, lines 3 – 8 and Col 15, lines 22 – 36 the feature of link creation between objects and collections by various processes. However, in the cited portions of Lewak, he shows: a) given a file the user must manually point-and-click to select a category from a limited menu for the current file: b) selecting more than one category (grouping); c) "linking categories" by which he means that objects in Category A should also be considered to be in Category B. That is, objects in Category "Porsche" are automatically in Category "Sports Car", IF Porsche has been linked to Sports Car. But the claim sub-part is directed to drag-and-drop

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which Lewak does not show. Nor does Lewak show user entry of collection names, including typing with auto-completion, and does not show automatic linking of categories by the system itself matching metadata criteria.

In order to not burden the record, Applicant states in summary that the quotes out of Lewak (and occasionally Watkins) with reference to the claims in the Detailed Action do not cure the deficiencies in Watkins + Lewak as to the novel and patentable elements e) i) through e) iii) in main claim 1, nor the corresponding steps in main claim 11, steps c) i) through c iii). Further, they do not show the automatic functionality claimed. Accordingly, those claims are patentable, and should be allowed.
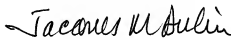
CONCLUSION

Favorable action of allowance of all claims is respectfully requested. In the event that there remain any open issues, the Examiner is requested to expedite the prosecution of this case by calling undersigned counsel for Applicant to resolve such issues.

Respectfully submitted,
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Date: April 9, 2007   by: _Jacques M. Dulin_

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End of Section 3, Remarks

End of Response to Final Rejection